

Town of North Andover
ZONING BOARD OF APPEALS



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Gerald A. Brown

Approved ✓
August
13, 2013
8-13-13

DRAFT MINUTES
Tuesday, June 18, 2013 at 7:30 PM
Senior Center 120R Main Street, North Andover, Massachusetts

Members present: Albert Manzi III (arrived 9:25), Esq., Ellen McIntyre, Richard Byers, D. Paul Koch Jr., Esq. and Allan Cuscia
Associate Member: Michael Liporto, Deney Morganthal and Doug Ludgin
Also in attendance: Zoning Enforcement Officer: Gerald Brown

McIntyre stated that she will be the acting Chairman, until Chairman Manzi arrives. McIntyre called the meeting to order at 7:30.

Pledge of Allegiance

Acceptance of Minutes for May 7th, 2013

Cuscia made the motion to approve the Minutes

Koch second the motion.

Those voting in favor to approve the minutes were McIntyre, Byers, Koch, Cuscia and Liporto.
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Committee Report

Committee Report Housing Partnership Report

Ellen McIntyre stated that she does not have anything to report, since they did not meet.

Committee Report Merrimack Valley Planning Commission Report

Richard Byers stated that "Planning Day" is Thursday at 9:00 AM at Northern Essex Community College in Haverhill. Many will be attending this meeting such as town managers, mayors, and various speakers will be on hand. They will be talking and discussing on the subject of regionalization. Also former Lieutenant Tim Murray will also be there.

McIntyre along with the rest of the Board wanted to congratulate Byers on getting re-appointed as the Chairman of the MVPC.

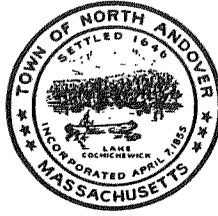
Special Permit and Variances R-3, Edward and Tina Collins, 75 Chestnut Street (Map 60.C Lot 28)

The Applicant has requested from the Board to continue this hearing until August 13th 2013, since their plans were not ready.

Byers made a motion to grant a continuance till the regular August 13th meeting.

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Koch second the motion

All were in favor to grant the continuance for 75 Chestnut Street; McIntyre, Byers, Koch, Cuscia and Liporto

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McIntyre stated since the applicant and their attorney for Martin Ave are not here yet, we will table it and go onto the **New Public Hearing on 19 Tolland Road Hearing.**

New Public Hearings

Special Permit and Variances R-4, Robert and Deborah Lurvey, 19 Tolland Road (Map 24, Parcel 52)

Robert Lurvey walked up to the podium and stated that he and his wife, Deborah would like to construct an addition of a sunroom and a three stall garage onto their pre-existing non-conforming home in the R-4 Zone.

They need both a Special Permit from Section 9.1 for a pre-existing non-conforming structure and also a Variance from Table 2. The proposed is 10.8' and the required setback is 30'.

McIntyre asked them what their hardship was such as soil, shape, and topography. McIntyre commented to Lurvey, that Massachusetts State Law requires that you prove that to the board when you need a variance. Debra Lurvey walked up to the podium and stated that the shape of their lot is their hardship. Lurvey stated that it is a narrow lot and it is how the house is situated along with the floor plan. If they built it without requesting this variance, then it would take a lot of natural light away from the inside of their home since they would have to block or loose a window that carries that natural light. Lurvey stated that this is an old home and does not have an open concept so light does not flow thru their house.

She stated that is why she wanted to place the garages in this proposed location.

McIntyre commented to the Lurvey's, that by making this change, they are changing requirements on their lot and house, and as a result, with this proposal, will be increasing the nonconformity.

Ludgin stated that they can do surface improvements to their driveway.

Cuscia stated he drove through the neighborhood, and that most of the neighbors have 2 stall garages, rather than 3 like they are proposing.

Lurvey stated that 1 stall is 2 deep and the other is 1 deep. The deep stall is for his tractor and lawn equipment. Cuscia had concerns with how these setbacks may affect neighbors, since it is 18' from their setback and how they would be driving in and out of the third door.

Lurvey stated that his neighbors are in favor of this project and have shown no opposition.

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McIntyre discussed the size and height of the house, and then discussed with the board and the applicant the calculations on the existing plans as well as the calculations on the proposed project.

Ludgin wanted to talk of the intent of the application and asked the Lurvey's if they thought about pulling the garage up further, since that is the violating factor.

Lurvey responded that they would lose lots of natural light because of how the light flows into their home, since it is not an open concept.

McIntyre stated to the applicant, because you want natural light in your home is not a reason for a variance.

Koch suggested taking about 6 feet from the back of the garage, possibly that may be adequate, and can be done as a right and it would eliminate the board from finding a hardship.

McIntyre asked Brown if they met all their setbacks will they need to go in front of the Board for a Special Permit. Brown responded no, as long as they do not make any new setback violations. Brown stated that he did explain the other option(s) to the Lurvey's.

McIntyre stated to the Lurvey's it is difficult to grant a variance, when they have other alternatives or options.

Lurvey stated he thought that the neighbors would be happier with this proposed look, then the one he may be forced to do.

McIntyre explained to the Lurvey's the process of voting, as well as signing a "Withdrawal Without Prejudice" form, and what that would mean to them in the future, if they planned on coming back to the Board with new plans. McIntyre also explained what it also meant if they did not sign the "Withdrawal Without Prejudice" form.

McIntyre asked if the Board had any questions and also asked if anyone is here for or against it.

Richard Brenner walked up to the podium and stated that he is a real-estate broker and lives in Andover Massachusetts. He is familiar with this neighborhood because he does own a piece of property close by to the Lurvey's and stated that most of these homes and lots are mostly pre-existing nonconforming. Brenner also went on to say that he believes the Lurvey's, when they said the neighbors are not opposed to this project, because of the makeup of the area.

Brenner stated that he felt it may be in the Lurvey's best interest to sign the 'Withdrawal Without Prejudice' form so they can come back to the Board with a new plan.

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McIntyre asked if there were any further comment from the applicant or the board.

The Lurvey's stated that they understood what McIntyre explained with regards to the 'Withdraw Without Prejudice' form and wanted to go forward with the vote anyways. Since this proposed was their "A" plan.

Byers made a motion to grant the Special Permit from 9.1 and the Variance from Table 2 of the Zoning By laws for one rear yard setback in the R-4 Zoning District to construct a three stall garage to the pre-existing non-conforming structure. The Variance requested would be 10.8' for the rear setback. Byers referenced all the drawings, plans and maps in front of him along with associated dates. Koch second the motion. Byers and Ludgin were in favor of the Special Permit and Variance for this project. McIntyre, Koch and Cuscia were not in favor of the Special Permit and Variance for this project. 2 -3, Project was denied

McIntyre stated that we will now move onto Martin Avenue, since the applicant and the attorney are both here.

Chairman Manzi has recused himself from this hearing and the vote.

Continued Public Hearing

Special Permit R-4, V. Scott Follansbee, 50 Martin Avenue (Map 45G Lot 36)

Atty. John Burke walked up to the podium stating that he is representing Scott Follansbee, he is requesting a Special Permit to construct and attach a new single family home to the already existing single family home. He stated that he and his client have been here in front of the board with regards to this property. We are looking for a conversion from a one family to a two family. Burke also stated that he is here along with the engineer for the project, Ben Osgood Jr.

His client has changed the plans to conform to the list of objections from the Bylaws that were not met with the last plan. Burke mentioned that Bernadette Curran, of 223 Forest Street stated all of these violations and objections from the Town's Bylaws at the last meeting in January. Burke went through Curran's entire list of violations and objections. Burke spoke of how they have now met each of the objections and violations with the new revised plans. He stated that he and his client are here for a Special Permit. Burke spoke of the variety of various lot sizes, homes, and styles, sizes of home, single and multi family homes that were located in this neighborhood. He told the Board that they are not violating any setbacks with this proposed plan. This is not a cookie cutter neighborhood. These homes were all built at various times.

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Burke mentioned to the Board that many of these lots in the neighborhood are 10,000 square feet and his client has almost 20,000 square feet.

Burke stated that most of the neighbors are against this proposed project, but his client has the right to do this. Burke presented 2 packets of pictures to the Board of the homes in the neighborhood (one set of pictures was for the left side of the street and one was of the right side of the street) along with a letter of support in favor of this project from Carina and James Logue, of 119 Martin Avenue.

Burke showed the new proposed plan to the Board and how the attached additional home will look. Burke pointed out the driveways on the plan.

Osgood Jr., walked up to the podium and McIntyre asked of the frontage of the existing and the additional home.

Koch wanted it to be reiterated that they have met all setbacks and that this is for just a Special Permit. He asked Burke to explain the Special Permit that is being requested.

Burke reiterated that this proposal is compatible with the neighborhood and also that his client lives there, and used quality materials in order to construct his home and he will continue to do so with the proposed addition. His client builds well built homes, uses only the finest materials and they are strictly seeking a Special Permit (for a conversion) and they have met all the criteria of the bylaws.

Byers asked if this will be condos or rented. Burke responded his client will maintain ownership and will rent out the proposed unit.

McIntyre spoke of the requirements for conversions stated in the bylaws. Burke stated it is under 4.1.22, 14, B of the Bylaws.

McIntyre asked if there were any questions from the Board.

Mary Dangelo, of 25 Martin Avenue is also in favor of this project. She spoke of the quality of the applicant's work, on Martin Avenue. She stated his home is an asset to the neighborhood; she thought the applicant's house is just beautiful and also stated that this is a big lot and has no problems with this proposed project.

McIntyre asked if anyone else is in favor. No one walked up, so McIntyre asked the abutters if anyone was opposed.

Paul Dubois, 75 Meadow Lane was against this proposed project and stated that he felt that this home is oversized even without the garage. He felt if you take the garage out you will not have storage.

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Bernadette Curran, of 223 Forest Street walked up to the podium and stated that she is speaking for her mother, Bernadette Dubois who lives at 53 Martin Avenue. Curran spoke of the past project that has been before the board for this property. She stated that this proposed structure does not match the neighborhood; it is too large in size and length. Curran compared it to a strip mall. She spoke of how they amended the Bylaws 10 years ago with regards to projects such as this (proposal of a 2 family). She wants this amendment protected and then asked the Board to please deny this proposed project on Martin Ave. Curran referenced and quoted parts of the By-laws. She also quoted parts of the Rules and Regulations of the Zoning Board, and then asked the Board to enforce what the Guidelines of the Zoning Board's Rules and Regulations are as well.

Byers corrected Curran on what was stated incorrectly regarding the approved continuances that were granted for this applicant regarding this petition on this property.

Stephen Manning, of 64 Martin Avenue also opposes the project and wants the Board to deny it. He also spoke of the drywell and had concerns with water issues on his property.

Cuscia asked whose dry well is it. Manning responded, the applicant. Cuscia then stated he could relocate the drywell, Manning agreed, he could.

Stuart Miller, of 93 Martin Avenue stated he opposes the proposed project of attaching another unit to the existing home, since it is too large.

Ann Higgins, of 92 Martin Avenue lives on the same side of the street 5 houses down from applicant. She stated that she wants to keep the integrity of the neighborhood and felt it should only be for single family homes and is opposed to this project.

Joseph Shola, of 24 Meadow Lane was not happy with the project such as the looks and conformity. He thought it was too big and too long and was opposed to this project.

Robert Gallagher of 71 Martin Avenue stated that he is diagonally across the street from the applicant. He felt it should be a single family house. But he also wanted to say that Mr. Follansbee is a professional builder and developer. He is opposed to the size of the house.

Elin Anderson, of 71 Adams Avenue stated that she is opposed.

Ben Osgood addressed the drainage issues and infiltration systems, stating it is on the side of the lot to infiltrate water away from the additional runoff and to store water and to go into the catch basin slowly.

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Burke returned to the podium. Burke wanted to mention to the Board that the Bylaws did not eliminate the right to build a 2 family, it is by Special Permit.

Everything we have stated and done meet the bylaws. The neighbors may oppose it, but my client can come in front of this Board for a Special Permit. Also this neighborhood does have 2 families. Burke stated the bottom line is that my client meets all the criteria. Burke stated that we are within the requirements.

Koch stated for the record that this is an R-4 Zoning District and a Special Permit is allowed for a 2-family. Burke responded yes to both

Ludgin gave a suggestion regarding the roofline, and felt that the roof line and continuity of the roofline should be broken up with a better rhythm. Burke stated it may increase the size of the addition with added dormers. Burke stated that they will certainly look into this to see what can be done.

Ann Manning, of 64 Martin Avenue stated that no house is remotely similar to this house in the neighborhood. She asked the Board not to allow this 2 family.

Cuscia made a motion to close the hearing

Byers second it

All in favor to close the meeting were McIntyre, Byers, Koch, Cuscia and Liporto

5-0

Cuscia felt that the applicant has met all the setback requirements and have met all the criteria and it is a mismatch of homes in the neighborhood, so it fits in with the area.

McIntyre asked if the Board understood and read 4.122 of the Zoning Bylaws.

Liporto stated that he does understand both sides (applicants and opposed abutters).

Byers stated he understands what Atty. Burke stated and that conversions are not banned and that they are by Special Permit.

Liporto stated that the applicant could have built a single family home this large and as long, because all setbacks are met.

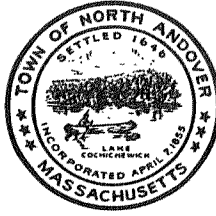
Byers made a motion to grant the Special Permit to construct a new a unit to the existing single family home in accordance with section 10.3 and 4.122.14D of the Zoning Bylaws in the R-4 Zoning area.

Byers referenced all the drawings, plans and maps in front of him along with associated dates

Cuscia second the motion

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All in favor to grant the Special Permit were Byers, Koch, Cuscia and Liporto
McIntyre voted against the Special Permit (for the record, Manzi recused himself from this vote).
4-1 Project was granted

McIntyre stated that we will take a 5 minute recess.

Manzi returned to the meeting at 9:25. McIntyre gave the gavel over to the Chairman.

New Public Hearing

Special Permit is requested in the I-S Zone, for property located at **8 Marblehead Street (Map 8, Parcel 4)**, North Andover, MA 01845.

James Broadhurst, the applicant walked to the podium and stated that he would like the board to allow a retail automotive locksmith service at 8 Marblehead Street in the I S Zone.

James Broadhurst stated that he is the owner of EKEYS4CARS.

Before he started Broadhurst understood that there was a concern from the Chairman to have the deed and certificate of the trust from the present owners of the building on 8 Marblehead Road. Broadhurst handed the request information over to Manzi.

Manzi thanked him for this information. Manzi stated that it is important to have this information for the record.

Broadhurst went on to explain to the Board the type of business he was proposing to run at 8 Marblehead Road.

He also spoke of the location, history of the property and other business that have occupied this area at one time.

Broadhurst stated that this building is in two sections one part is rented to someone who deals with models and storage for old and new books (he buys and sells old books).

Broadhurst stated he will be in the front part of the building. Broadhurst also mentioned that he runs this exact type of business in Windham, NH. Broadhurst stated they he is an electronic locksmith He presently has 4 cars on the road. Broadhurst also stated that the majority of his work is done on the road. Broadhurst stated that he will not be doing any car repairs; he is strictly an automotive locksmith. One of his customers happens to be AAA. If you lose keys, break a key, EKEYS4CARS have the capability to fabricate most keys that will work in a vehicle.

There will be no car lifts in the building, but Broadhurst stated that he proposes to store the vans within the building. Broadhurst stated that this type of business is permitted through a Special Permit and that is what he is requesting from the Board tonight.

Manzi asked if Broadhurst could point to the part of the building he would be occupying. Manzi asked how many vehicles would be parked in the building. Broadhurst responded 3. Broadhurst stated that no vehicles will be left outside, since he has some very expensive tools that are in these vans.

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Manzi asked if the parking lot will be striped, he asked if parking calculations were done. Broadhurst stated yes.

Manzi stated that he will like to see a parking plan. Broadhurst had 2 Mylars to submit to the Board.

Manzi stated that it seems like a great business.

Byers read on the plan that 12 parking spots are required and they have 15 parking spots.

Manzi questioned the handicap parking.

Manzi stated that he did talk to Town Counsel on this project and asked if a business such as this was allowed in this I S Zone with a Special Permit. Town Counsel stated that it is an appropriate type of business.

Broadhurst did say to the Board he is in the process to purchase this building. Broadhurst plans to put a garage door and entrance to match the existing facade. Broadhurst presented his plans to the board.

Broadhurst stated that he will have one programming bay inside. They will just work on keys and keys alone.

Broadhurst read all the criteria to the Board and let them know in detail how this business works.

Manzi had concerns with parking. Broadhurst stated that having lots of parking is not conducive to his type of business, since his type of business does not bring in many customers; many are on the road customers.

Byers asked how many employees will be on site, and how many vehicles will be on site. Broadhurst stated it could be 1 to 2 employees and the vans would be in the building and possibly 1-2 cars outside.

Byers stated that this business seems to be a locksmith for cars. Broadhurst agreed.

Manzi had concerns with what the sign would look like. Brown assured Manzi and the Board the sign will comply with the Bylaws, if not, he will send him to the Board for approval. If it complies Brown stated he will issue a permit.

Mrs. McCubbin, of 17 Marblehead Street had concerns if this would be an automotive repair/service station, or could it turn into another type of business in the future, that would not be appropriate or allowed at this location.

Brown assured McCubbin that if this business changed they would still need to come to the building department to make sure this use was allowed. Brown also stated that this Special Permit only stays with this business, and if they were to leave that Special Permit goes away.

McCubbin said that this seems like an appropriate and quiet type of business, she is in favor of this business, but McCubbin is worried for the future. Brown assured her if anyone new were to move into

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that location, they would need to go to the Building Department and go through the proper procedures, such as Mr. Broadhurst did.

Leo LaMonte, of 10 Corbett Road in Lawrence, Massachusetts walked up to the podium stating that he owns property on 100 Belmont Road, near the property of the applicant. LaMonte is in favor of this property and has had the pleasure to work with him, and also knows how Broadhurst runs his business. LaMonte felt it would be an asset to the neighborhood to have this business and Broadhurst in North Andover. He is in favor of this business coming into this location.

A letter was submitted, via e-mail from Lynne Rudnicki, of 32 Marblehead Street an abutter to 8 Marblehead Street, dated June 18, 2013. Manzi read the letter out loud

In summary Rudnick supports the application as presented in the letter, as described in the TRC and welcomed this business into North Andover.

She mentioned a few concerns such as amount of vehicles and parking locations on the lot, restricting time of employees coming in early or staying late, and signage.

Manzi asked the Board if they had any questions to the applicant.

McIntyre asked of service hours. Broadhurst responded in this facility the hours are Monday-Friday 8:30-5:00, and Saturday 9:00-2:00. After hours an on call technician can take their calls, they do not need to be at the facility to receive the calls.

Byers stated that he thought that this is a great business and also a great use for the building.

Manzi asked of the proposed landscaping, Broadhurst pointed out where the planters and landscaping will be located on this property.

Ludgin asked of change of use to Brown and if it would conform to building codes, Brown explain the process to Ludgin.

Liporto asked Broadhurst if he is keeping the existing tenant and if there is anything that needs to be taken into consideration, such as parking.

Broadhurst talked of the parking calculations.

Manzi asked Broadhurst if he is willing to work with the Building Inspector, with respect to uses, signs, parking and other issues, and if needed, come to the Board for approval.

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Broadhurst responded that he plans on meeting all the Town's ordinances.

Byers made a motion to close the hearing

Koch second the motion

All in favor to close the hearing, Manzi, McIntyre, Byers, Koch and Cuscia

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Byers made a motion to Grant the Special Permit to allow for a retail automotive locksmith service at 8 Marblehead Street in the I S Zoning District. Byers referenced all the maps, plans, drawings and associated dates that were in front of him.

With the condition that the Building Inspector, Brown verify the parking on a new Mylar that will also include a designated handicap parking spot.

Koch second the motion

All in favor to Grant the Special Permit were; Manzi, McIntyre, Byers, Koch and Cuscia

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Miscellaneous Correspondence

Manzi reviewed the letters that were included into the Board's packets. A letter from CHAPA dated May 3, 2013 sent from Program Manager, Elizabeth Palma-Diaz, regarding owner's intent to sell their affordable unit.

Adjournment: 10:21

Cuscia made a motion to adjourn the meeting

Koch second the motion

All were in favor to adjourn the meeting Manzi, McIntyre, Byers, Koch and Cuscia.

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